

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MATTHEW SPRAGUE,

Plaintiff,

- against -

MAYWEATHER PROMOTIONS LLC

Defendant.

Docket No. 1:19-cv-5214

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Matthew Sprague (“Sprague” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Mayweather Promotions LLC (“Mayweather” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of boxer Gervonta Davis, owned and registered by Sprague, a professional photographer. Accordingly, Sprague seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Upon information and belief, this Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Sprague is a professional photographer in the business of licensing his photographs for a fee having a usual place of business at 1408 Teal Lane, Frederick MD 21703.

6. Upon information and belief, Mayweather is a domestic limited liability company with a place of business at 4616 West Sahara Avenue, Las Vegas, Nevada 89102. At all times material hereto, Mayweather has created ads to promote the Davis v. Ruiz boxing match (the “Ad”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Sprague photographed boxer Gervonta Davis (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Sprague is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with United States Copyright Office and was given Copyright Registration Number VA 2-036-377.

B. Defendant’s Infringing Activities

10. Mayweather ran the Ad to promote the Davis v. Ruiz boxing match on February 9, 2019. The Ad featured the Photograph. A screenshot of the Ad with the Photograph is attached hereto as Exhibit B.

11. Mayweather did not license the Photograph from Plaintiff for its Ad, nor did Mayweather have Plaintiff’s permission or consent to publish the Photograph on its Ad.

12. Mayweather has a history of using Sprague Photograph without permission. In 2017, Sprague filed a copyright infringement lawsuit against Mayweather in 2017 for using the same Photograph in other Ads without Sprague's permission.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Mayweather infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Ad. Mayweather is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Mayweather have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

18. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

19. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Mayweather be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
June 2, 2019

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